

REMARKS

Applicant elected Species I, Claims 1-15 and 18 in the Restriction Requirement of the Examiner. Accordingly, claims 16, 17, 19 and 20 are withdrawn from further consideration as being drawn to the non-elected invention.

The Examiner's objection to the drawings under 37 C.F.R. 1.83(a) is respectfully traversed. Applicant has cancelled claim 10 without prejudice. The drawings must show every feature of the invention specified in the claims. The Examiner had objected to the requirement "at least one depression at least partway through the top surface as recited in claim 10." Claim 10 has been cancelled.

The Examiner's objection to the drawings under 37 C.F.R. 1.84(p)(4) because the reference character "18" has been used to designate "a top surface" and "protruding ribs" (specification, paragraph [0033]) is respectfully traversed. Applicant has corrected paragraph 33 and amended the specification where necessary to ensure that the reference character "18" refers to the "retention ribs" used to hold the styptic pencil in place.

Paragraphs [0032] and [0033] have been amended. It is believed that the amendment overcomes the Examiner's objection to the drawings.

The Examiner's objection to the specification as failing to provide proper antecedent basis for the claimed subject matter is respectfully traversed. Applicant has cancelled claim 10 which contained a requirement for "at least one depression at least partway through the top surface as recited in claim 10." Inasmuch as claim 10 is now cancelled, the Examiner's objection is believed to be overcome.

The Examiner's rejection of claims 3-6 and 12 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is respectfully traversed. Claim 3 has been amended to provide antecedent basis for "the inner retainer." Claims 4-6 which depend from claim 3 are therefore corrected also.

Claim 5 recites the limitation "the outer cylinder." Applicant has amended claim 5 to recite an antecedent basis for "the outer cylinder."

Claim 10 has been cancelled.

Claim 12 has been amended to provide an antecedent basis for "the means for sealing."

The Examiner's rejection of claims 1-6, 9-15 and 18 under 35 U.S.C. 102(b) as anticipated by Lombardi et al. (U.S. Patent No. 5,342,134) is respectfully traversed. All of the claims require the limitation of an element that includes a styptic pencil. The Lombardi et al. reference discloses "lipstick 30" throughout the patent. There is no reference or element shown in the Lombardi reference for a styptic pencil. Webster's dictionary defines as follows: "styptic pencil: a cylindrical stick of a paste vehicle medicated with a styptic substance as alum and applied to small wounds to stop bleeding." It is elementary patent law that for a 35 U.S.C 102 rejection under anticipation, each and every element of the claimed invention must be shown in the reference. The Lombardi et al. reference does not disclose, discuss or suggest a styptic pencil. This has important consequences for other structural elements. Applicant's claimed invention provides a moisture seal to prevent any moisture from contacting the styptic pencil which can deteriorate the styptic pencil. Therefore, applicant's every claim has at least one limitation for a moisture barrier or sealing means to prevent moisture from being received inside of the dispenser.

The Examiner's rejection of claims 7 and 8 under 35 U.S.C. 103(a) as unpatentable over Lombardi et al. is respectfully traversed.

The problems being solved by applicant's claimed invention are the complete opposite of the problems discussed in the Lombardi et al. reference. Lipstick needs to stay moist and requires humidity. Applicant's styptic pencil needs to stay dry and must stay away from moisture and humidity. Applicant's claims includes specific structural limitations to ensure that the styptic pencil claimed in applicant's invention and housed in applicant's dispenser is protected from receiving humidity or moisture when it is stored inside the container dispenser.

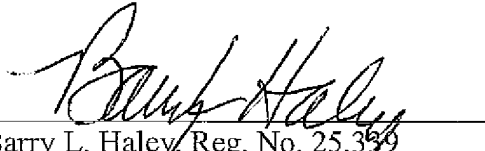
The Lombardi et al. reference does not disclose that a styptic pencil at all and the styptic pencil comprise water soluble resin, polyethylene glycol and glycerine as claimed. There is absolutely no mention in the Lombardi et al. reference to provide any type of styptic pencil of any composition. Even citing *KSR*, there must be some, be it ever remote, suggestion to provide the elements that are recited in the claims. A person of ordinary skill in the art in the field of styptic pencils reading Lombardi et al. would realize there is absolutely no information whatsoever in Lombardi that has any application to styptic pencils. Therefore, citing Lombardi et al. is not a relevant or material reference that could be used to sustain a 35 U.S.C. 103 obviousness rejection on the basis that it contains no information whatsoever relevant to styptic pencils. Therefore, it is believed that the Examiner has failed to provide a *prima facie* rejection of obviousness as required under patent laws.

It is believed that the remaining claims are allowable over the art of record.

In re application of: KAPLAN, Jeffrey
Serial No.: 10/709,242
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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barry L. Haley", is written over a horizontal line.

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